

To: Todd Porter; Dick Anderson; Glenn Bosch; Bill Devlin; Pat D. Heinert; George Keiser; Mike Lefor; Andrew Marschall; Shannon Roers Jones; Matthew Ruby; Denton Zubke; Ron Guggisberg; Zachary Ista; Chuck Damschen

Cc: Fintan Dooley; dglatt@nd.gov; Marvin Nelson; Donald Nelson; Paul Neilan

Subject: Re: Salt Contaminated Land and Water Council's support of a Special Monitoring Measure, House Bill No. 1401

Attachments: 2020-1-22 Delzer - Burgum Alliance.pdf; 2020-11-23 Reinvest in North Dakota.pdf; 2021-1-4 Historic Produced Water Spill Site Characterization by Kerry Sublette.pdf; 2020-5-5 PowerPoint for Presentation.pdf; 2021-1-23 BIG4 Acres.pdf

Dear Chairman Porter and Committee Members,

Just an hour ago, I learned about yet another hearing to consider tomorrow morning at 8:00 am on January 29, 2021 whether to approve or not House Bill No. 1401. The Salt Contaminated Land and Water Council (SCLWC), a 501(c)(3), North Dakota Educational Non-Profit, has the following comments in the form of this email and its attachments on House Bill 1401.

I understand Rep. Marvin Nelson's bill is being referred to as a **"Special Monitoring Measure."** I understand that Rep. Keiser has asked, "Is this really a problem" and he received an uncertain response from David Glatt. The visual evidence that North Dakota has a major problem is available on pages 2 and 3 of the first attachment and actually measured acre by acre in the fifth attachment. Online pictures are available at www.nddeadlands.org and www.oilindustrydeadlands.org. Online soil science papers are available at www.saltedlands.org.

On behalf of the SCLWC, I respectfully remind David Glatt that he has spoken more candidly about salt spills in the past, when he declared, "We cannot let happen in the Bakken what has happened in Bottineau County." What is happening in the Bakken and Bottineau County is decades of salt spills which continue in Bottineau County and more recently, if you consider 2009 recent an endless series of salt spills. Respectfully now without blaming anyone we haven't found them all. As Mr. Helms said to me two Sundays ago, "We have 20,000 sites (to monitor). The coal industry has seven (mines to monitor)."

Your approval of this bill will signal a new beginning and honesty that is overdue because our State inspectors are underfunded and over taxed, if they are going to protect private property from oil industry spills. As is implied by Director Helms, the 20,000 sites and on your honor spill reporting system we use has left us in an awkward position. Here is the hope. We can now locate spill sites using satellite technology, planes, and drones and by ground truthing farmers can be trained to find the limits of the spill sites using new and affordable technology.

One retired State Official tells us the problem is massive. The State has since 1951 taken private property in each instance in which a spill occurred and the State did not require a clean-up. Steve Tillitson tells how. He long served as the North Dakota Health Department Solid Waste Management Director, made this expression to veteran reclamation manager, Lance Loken. Mr. Tillitson confirmed the same warning in a conversation with me:

Each unreclaimed salt water disposal site is an unpermitted solid waste disposal site.

The State has not monitored special waste, salt water and has not and has not done its duty either under the statutes and rules or under the constitutional duties imposed by the Public Trust Doctrine. I request an opportunity to explain but for now let me identify my attachments.

The first attachment is an invitation to Representative Delzer to assist Governor Burgum in a fresh start on the States Legacy of Salted Lands and Oil Industry Junk Yards. \$2 million would allow an honest assessment of the acreage involved. We can find all the Dead and Dying Lands associated with uneconomic oil wells and abandoned **oil industry junkyards**. See aerial photos them in the gallery at www.oilindustrydeadlands.org or www.nddeadlands.org. One further thought, we can use satellite, planes and drones to find and estimate the size and likely cost of reclaiming acres taken by the State's default. More on this available at www.saltedlands.org.

The second, third and fourth attachments tell the many reasons for hope that with modern technology and breakthroughs in soil science reclamation of salt damaged lands has never been more affordable. See especially the fifth attachment which was prepared by a most capable young agronomist, Cody Hatzenbuhler, who is cooperating with a team of senior soil scientists headed by Kerry Sublette. Steve Apfelbaum, one of the nation's most forward thinking restoration botanists has informed the Governor that Wall Street wants to invest \$1 billion in restoring the productivity of our State's Dead and Dying Lands if only State's Public Trustees matches Wall Street's investment. Yes, bonding again!

It is a stark choice: Undertake a new beginning by monitoring and regulating special waste. Kicking the can down the road will trigger decades of litigation, in which the State stands in the dock, perhaps actually alone. Why? Because the State stands in the shoes of the dead and the walk-offs of the oil industry. Few, if any, in the 67 Legislative Assembly are willing to change corporate immunity and impose liability on even the most contemptuous oil industry executives, not even in the \$1 million dollar clean up circumstance which so offended DMR Director Lynn Helms.

Please allow me to testify in person and answer questions about the way forward without wasteful, time consuming and embittering litigation. I request that this email and its attachments be accepted into the committees record of testimony on House Bill No. 1401. If my request cannot be allowed, please tell me. I will try again following whatever suggestions you may give me. I prefer to testify in person tomorrow morning.

Respectfully submitted by SCLWC – Lobbyist No. 384.



Fintan L. Dooley, Esq.

ND Bar: 03270

218 North 4th Street

Bismarck ND 58501

701-212-1000 Office

414-731-0520 Cell

701-557-1618 Fax

findooley@gmail.com

This is a transmission from the law firm of Dooley Law Office and may contain information which is privileged, confidential, and protected by the attorney-client or attorney work product privileges. If you are not the addressee, note that any disclosure, copying, distribution, or use of the contents of this message is prohibited. If you have received this transmission in error, please destroy it and notify us immediately at our telephone number (701) 221-1000.

BIG 4

Sec 29-32 of
162-81

Pan Ag, LLC

Cody Hatzenbuehler

1/23/2021

Bottineau County Ground Zero

Legend



Acres



Big 4 Site (Impacted Land)

Number of Sites

14

Approx Acres

172.20

4 ac

1.1 ac

3.3 ac

15 ac

8.5 ac

7.2 ac

4.0 ac

6.2 ac

18.5 ac

7.0 ac

4.0 ac

4.2 ac

23rd Ave NW

11.1 ac

5.2 ac

96th St NW

22nd Ave NW



2000 ft

Google Earth

Image USDA Farm Service Agency